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Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 20 August 2003 from the Permanent Mission of Ecuador to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Ecuador to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) and, with reference to his note SCA/2/03(03) of 4 March 2003, has the honour to transmit herewith the report of Ecuador pursuant to paragraphs 6 and 12 of Security Council resolution 1455 (2003) (see annex).

The Permanent Mission of Ecuador to the United Nations wishes to point out that the attached report was drawn up in strict conformity with the guidelines of note SCA/2/03(03) of 4 March 2003 and with the guidance for reports required of all States pursuant to paragraphs 6 and 12 of resolution 1455 (2003) received from the Chairman of the Committee.

The Permanent Mission of Ecuador to the United Nations also takes this opportunity to transmit to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) the supplementary report which Ecuador presented to the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism.

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Annex to the note verbale from the Permanent Mission of Ecuador to the United Nations addressed to the Chairman of the Committee

[Original: Spanish]

Report of the Republic of Ecuador pursuant to paragraphs 6 and 12 of Security Council resolution 1455 (2003)

This report has been drawn up in strict conformity with the instructions of note SCA/2/03(03) of 4 March 2003 and with the paper entitled *Guidance for reports required of all States pursuant to paragraphs 6 and 12 of resolution 1455 (2003)* sent to the Permanent Mission of Ecuador to the United Nations by the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999).

I. Introduction

1. **Please provide a description of activities, if any, by Osama bin Laden, al-Qa`idah, the Taliban and their associates in your country, the threat they pose to the country and the region, as well as likely trends.**

There has been no activity of any kind by Osama bin Laden, al-Qa`idah, the Taliban or their associates in Ecuador. Intelligence has not detected any threat or trend indicating that they might be attempting to undertake such activities.

II. Consolidated list

2. **How has the Committee's list been incorporated within your legal system and your administrative structure, including financial supervision, police, immigration control, customs and consular authorities?**

The Superintendency of Banks and Insurance, in the capacity of supervisory authority, and the National Police, acting on the legal basis provided by Chapter I, Article 2, paragraph 5 of the Charter of the United Nations, promptly circulated the lists received to all the entities of the financial system, provincial commands and police departments with national responsibility, with instructions that the recipients should supply information on bank accounts that might have been opened by the natural and legal persons on the lists, and in the case of the police, that thorough arrival and departure checks should be carried out at the country's airports, seaports and borders. The Office of Consular Affairs of the Ministry of Foreign Affairs refers to the consolidated list when handling cases. The Superintendency of Companies will also incorporate use of the consolidated list into its responsibilities and administrative structure.

3. **Have you encountered any problems with implementation with regard to the names and identifying information as currently included in the list? If so, please describe these problems.**

Ecuador has had no implementation problems connected with the names and identifying information currently on the list. However, because financial institutions' computer systems identify customers by identity card or passport

number, consolidated tax roll number or numerical identification code, problems arise when checking for the names on the list, which contains only given names and surnames. It has been recommended that the lists should contain more information than that in order to make the task easier. The Superintendency of Companies has not uncovered anything problematic, despite exhaustive searches of its magnetic tape archive.

4. **Have your authorities identified inside your territory any designated individuals or entities? If so, please outline the actions that have been taken.**

The various bodies involved in this issue have not detected any person or member of an organization appearing on the list.

5. **Please submit to the Committee, to the extent possible, the names of individuals or entities associated with Osama bin Laden or members of the Taliban or al-Qa`idah that have not been included in the list, unless to do so would compromise investigations or enforcement actions.**

No person or organization associated with Osama bin Laden or members of the Taliban or al-Qa`idah was discovered through the institutions examined.

6. **Have any listed individuals or entities brought a lawsuit or engaged in legal proceedings against your authorities for inclusion in the list? Please specify and elaborate, as appropriate.**

Because no individual on the consolidated list has entered the country, the National Police has no knowledge of legal action being brought for inclusion on that list.

7. **Have you identified any of the listed individuals as nationals or residents of your country? Do your authorities have any relevant information about them not already included in the list? If so, please provide this information to the Committee as well as similar information on listed entities, as available.**

As indicated in the answers to previous questions, there are no Ecuadorians or temporary residents of Ecuador who should be included in the list.

8. **According to your national legislation, if any, please describe any measures you have taken to prevent entities and individuals from recruiting or supporting al-Qa`idah members in carrying out activities inside your country, and to prevent individuals from participating in al-Qa`idah training camps established in your territory or in another country.**

In compliance with Security Council resolutions, the National Police, through its various departments and activities, is alert to the presence of individuals or the conduct of activities contrary to Ecuadorian law, since ensuring security and public order is its primary responsibility under article 183 of the Political Constitution.

III. Financial and economic assets freeze

Under the sanctions regime (paragraph 4 (b) of resolution 1267 (1999) and paragraphs 1 and 2 (a) of resolution 1390 (2002)), States are to freeze without delay the funds and other financial assets or economic resources of the listed individuals and entities, including funds derived from property owned or controlled, directly or indirectly, by them or by persons acting on their behalf

or at their direction, and ensure that neither these nor any other funds, assets or resources are made available, directly or indirectly, for such persons' benefit, by their nationals or by any persons within their territory.

NOTE: For the purpose of implementation of the financial prohibitions in this sanctions regime, "economic resources" is defined to mean assets of every kind, whether tangible or intangible, movable or immovable.

9. **Please describe briefly:**

- **The domestic legal basis for implementing the asset freeze required by the above resolutions;**
- **Any impediments under your domestic law in this context and steps taken to address them.**

Article 119 of the Narcotic Drugs and Psychotropic Substances Act provides that judges should order the precautionary measures on persons and property described in article 171 of the Code of Criminal Procedure, particularly the freezing of funds and accounts held with financial institutions, informing the Superintendent of Banks and Insurance, who shall have 24 hours to implement the order and notify the financial institutions accordingly. The financial institutions must then freeze the assets in question and provide the Superintendent of Banks and Insurance and the judge with written confirmation that they have done so, within 48 hours.

10. **Please describe any structures or mechanisms in place within your Government to identify and investigate Osama bin Laden, al-Qa`idah or Taliban-related financial networks, or those who provide support to them or individuals, groups, undertakings and entities associated with them within your jurisdiction. Please indicate, as appropriate, how your efforts are coordinated nationally, regionally and/or internationally.**

The National Police, through its intelligence and anti-narcotics departments and the Judicial Police, Special Investigations Unit, among others, has undertaken a variety of investigative initiatives to locate, identify and, where warranted, arrest individuals associated with terrorist organizations, whether in financial networks or ordinary criminal activities. These investigative efforts involve integration and coordination among agencies in all branches of government in Ecuador. Direct contacts have been maintained at the national, regional and international levels with a view to obtaining timely information in all these areas.

11. **Please convey the steps banks and/or other financial institutions are required to take to locate and identify assets attributable to, or for the benefit of, Osama bin Laden or members of al-Qa`idah or the Taliban, or associated entities or individuals. Please describe any "due diligence" or "know your customer" requirements. Please indicate how these requirements are enforced, including the names and activities of agencies responsible for oversight.**

All institutions of the Ecuadorian financial system are required to comply with the Basel principles, as well as the 40 recommendations on money-laundering and the eight recommendations on terrorist financing of the Financial Action Task Force on Money Laundering (FATF). These recommendations are applied not just to locate and identify assets attributable to Osama bin Laden or members of al-Qa`idah or the Taliban but in general to prevent the laundering of assets through banks, investment companies, mutual savings and home loan associations, savings and loan

cooperatives and foreign exchange firms. Financial institutions are required to report any relevant information immediately, and in sufficient detail, to the Superintendency of Banks and Insurance on movements of funds in amounts or of a nature not in keeping with the economic activity of their clients; on transactions that by their number, amount or nature could reasonably give rise to the suspicion that the institution was being used to transfer, manage or invest funds or resources deriving from unlawful activities; or on complex and/or unusual transactions with no apparent economic or legal basis.

12. **Resolution 1455 (2003) calls on Member States to provide "a comprehensive summary of frozen assets of listed individuals and entities". Please provide a list of the assets that have been frozen in accordance with this resolution. This list should also include assets frozen pursuant to resolutions 1267 (1999), 1333 (2001) and 1390 (2002). Please include, to the extent possible, in each listing the following information:**

- **Identification(s) of the person or entities whose assets have been frozen;**
- **A description of the nature of the assets frozen (i.e., bank deposits, securities, business assets, precious commodities, works of art, real estate property and other assets);**
- **The value of the assets frozen.**

The National Police report that it has not been possible to draw up a list of assets frozen in Ecuador belonging to individuals or entities associated with Osama bin Laden, al-Qa`idah or the Taliban because, as mentioned earlier, no individuals or groups associated with such persons or organizations have been found in Ecuador.

13. **Please indicate whether you have released pursuant to resolution 1452 (2002) any funds, financial assets or economic assets that had previously been frozen as being related to Osama bin Laden or members of al-Qa`idah or the Taliban or associated individuals or entities. If so, please provide reasons, amounts unfrozen or released and dates.**

As explained under point 4 above, it can be concluded from the responses sent in by the financial institutions that they have no clients on file whose names are on the Committee's lists. Hence, there has been no occasion to report the freezing or release of financial assets or economic resources associated with Osama bin Laden, al-Qa`idah or the Taliban or entities or individuals associated with them.

14. **Pursuant to resolutions 1455 (2003), 1390 (2001), 1333 (2000) and 1267 (1999), States are to ensure that no funds, financial assets or economic resources are made available, directly or indirectly, to listed individuals or entities or for their benefit by nationals or by any persons within their territory. Please indicate the domestic legal basis, including a brief description of laws, regulations and/or procedures in place in your country to control the movements of such funds or assets to designated individuals and entities. This section should include a description of:**

- **The methodology, if any, used to inform banks and other financial institutions of the restrictions placed upon individuals or entities listed by the Committee, or who have otherwise been identified as members or associates of al-Qa`idah or the Taliban. This section should include an indication of the types of institutions informed and the methods used;**

- **Required bank-reporting procedures, if any, including the use of suspicious transaction reports (STRs), and how such reports are reviewed and evaluated;**

- **Requirements, if any, placed on financial institutions other than banks to provide suspicious transaction reports, and how such reports are reviewed and evaluated;**

- **Restrictions or regulations, if any, placed on the movement of precious commodities such as gold, diamonds and other related items;**

- **Restrictions or regulations, if any, applicable to alternate remittance systems such as — or similar to — "hawala", as well as on charities, cultural and other non-profit organizations engaged in the collection and disbursement of funds for social or charitable purposes.**

The reports mentioned under point 11 are to be submitted to the Superintendency of Banks and Insurance within the first 15 days of each month. If the reports reveal unusual transactions without a sound basis or indications that support the presumption that the transactions are related to the perpetration of a crime, they shall be brought to the attention of the Public Prosecutor's Office, as provided in article 93 of the General Act on Institutions of the Financial System, so that the Prosecutor's Office can institute the appropriate legal proceedings.

IV. Travel ban

Under the sanctions regime, all States shall take measures to prevent the entry into or transit through their territories of listed individuals (paragraph 1 of resolution 1455 (2003), paragraph 2 (b) of resolution 1390 (2002)).

15. **Please provide an outline of the legislative and/or administrative measures, if any, taken to implement the travel ban.**

If the situation should arise, the Ecuadorian authorities would apply the relevant provisions of the Status of Aliens Act, the Immigration Act and the Passports and Travel Documents Act and their respective regulations.

16. **Have you included the names of the listed individuals in your national "stop list" or border checkpoint list? Please briefly outline steps taken and any problems encountered.**

The list maintained by the Committee has been brought to the attention of all police departments at the national level, who have orders, if any persons on the list are identified and located, to arrest them. Heightened attention is being paid not only at border checkpoints but also at places of arrival and departure such as airports and seaports. No problems have been encountered in that regard.

17. **How often do you transmit the updated list to your border control authorities? Do you possess the capability of searching list data using electronic means at all your entry points?**

The National Police checks daily with the various units at the national level concerning the Committee's list. Updates received to the list are immediately transmitted to the various police checkpoints. There is some capability for receiving electronic data at border points and other points of entry and exit from the country.

18. **Have you stopped any of the listed individuals at any of your border points or while transiting your territory? If so, please provide additional information, as appropriate.**

The National Police reports that no person whose name is on the list or who has any connection with Osama bin Laden or his organizations has been stopped at border points or within the territory of the Republic of Ecuador.

19. **Please provide an outline of the measures, if any, taken to incorporate the list in the reference database of your consular offices. Have your visa-issuing authorities identified any visa applicant whose name appears on the list?**

The Immigration Service of the National Police is responsible for controlling immigration, emigration, entry to, exit from and stay in the country of nationals and aliens. No individual with links of any kind with Osama bin Laden or the organizations sought by international justice has attempted to apply for documents in order to enter, leave or stay in Ecuador. The Office of Consular Affairs has instructed Ecuadorian consular offices accredited abroad that it is mandatory to apply the Committee's consolidated list. The Office of Immigration Affairs has no record of any person on the list who has applied for a visa to enter Ecuador.